

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LAWRENCE BURKETT

§

§

VS.

§

CIVIL ACTION NO.: 22-cv-74

WALMART, INC.

§

JURY DEMANDED

DEFENDANT'S NOTICE OF REMOVAL

Defendant, Walmart, Inc. files this Notice of Removal pursuant to 28 U.S.C. § 1441, as follows:

Commencement and Service

1. On December 22, 2021, Plaintiff, Lawrence Burkett commenced this action against Walmart, Inc. by filing Plaintiff's Original Petition in the 57TH District Court of Bexar County, Texas, Cause No. 2021CI25912; *Lawrence Burkett v. Walmart, Inc.* A copy of Plaintiff's Original Petition is attached hereto as **Exhibit A**. Walmart, Inc. received service of process and Plaintiff's Original Petition on December 29, 2021. A copy of the Citation and Affidavit of Service is attached hereto as **Exhibit B**.
2. On January 21, 2022, Walmart, Inc. filed its Original Answer to Plaintiff's Original Petition which is attached as **Exhibit C** and Demand for Jury Trial, attached as **Exhibit D**.
3. This notice of removal is filed within thirty days (30) of the receipt of the Plaintiff's Original Petition which discloses that this matter involves an amount in controversy that exceeds \$75,000.00 and is timely filed under 28 U.S.C. § 1446(b). This notice of removal is filed within one year of the commencement of this action and is thus timely pursuant to 28 U.S.C. § 1446(b).

Grounds for Removal

4. Walmart, Inc. is entitled to remove the state court action to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 because this action is a civil action involving an amount in controversy

exceeding \$75,000.00 between parties with diverse citizenship. (See page 2, paragraph 8 of Plaintiff's Original Petition – Exhibit A).

Diversity of Citizenship

5. This is an action between parties with diversity of citizenship.
6. Plaintiff is a citizen of Texas.
7. Defendant Walmart, Inc. is a corporation that is incorporated in the State of Delaware with its principal place of business in Bentonville, Arkansas. Walmart, Inc. is a citizen of both the State of Delaware and the State of Arkansas.
8. No change of citizenship has occurred since commencement of the state court action.

Accordingly, diversity of citizenship exists among the parties.

Amount in Controversy

9. The amount in controversy exceeds the sum of \$75,000. (See page 2, paragraph 8 of Plaintiff's Original Petition – Exhibit A).

Venue

10. Venue lies in the Western District of Texas, San Antonio Division, pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the Plaintiff filed the state court action in this judicial district and division.

Notice

11. Contemporaneous with the filing of this notice of removal, Defendant will give notice of this filing to all parties of record pursuant to 28 U.S.C. § 1446(d). Defendant will also file with the clerk of the state court, and will serve upon Plaintiff's counsel and all other parties' counsel of record, a notice of the filing of this notice of removal.

Jury Demand

12. Defendant, Walmart, Inc. demanded a jury trial in the state court action.

State Court Pleadings

14. Copies of state court pleadings which are referenced within the Notice are attached to this Notice of Removal as **Exhibits A through D**. This case is being removed from the 225th Judicial District Court of Bexar County, Texas.

Exhibits to Notice of Removal

15. The following documents are attached to this Notice as correspondingly lettered exhibits:

- A. Plaintiff's Original Petition.
- B. Citation and Affidavit of Service on Walmart Inc.
- C. Defendant's Original Answer to Plaintiff's Original Petition.
- D. Defendant's Demand for Jury Trial.
- E. Case Summary.
- F. List of Counsel of Record.

WHEREFORE, Defendant, Walmart, Inc. pursuant to the statutes cited herein and in conformity with the requirements set forth in 28 U.S.C. § 1446, removes this action from the 57th Judicial District Court of Bexar County, Texas.

Respectfully submitted,

DAW & RAY
A LIMITED LIABILITY PARTNERSHIP

/s/ James K. Floyd

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WALMART, INC.**

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the above and foregoing instrument has been served upon all known counsel of record in accordance with the FRCP on this the 28th day of January, 2022.

Javier Espinoza
Lara Brock
Dannick Villasenor-Hernandez
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ATTORNEYS FOR PLAINTIFF

Via Priority Mail

/s/ James K. Floyd
James K. Floyd